

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED

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Magistrate Docket No. 08 MJ 2264
U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Rafael HERNANDEZ-Cortazar,

Defendant

Magistrate Docket No.


COMPLAINT FOR VIOLATION OF DEPUTY

Title 8, U.S.C., Section 1326
Deported Alien Found in the
United States

The undersigned complainant, being duly sworn, states:

On or about **July 24, 2008**, within the Southern District of California, defendant, **Rafael HERNANDEZ-Cortazar**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.


SIGNATURE OF COMPLAINANT

James Trombley
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 25th DAY OF JULY 2008.


Leo S. Papas
UNITED STATES MAGISTRATE JUDGE

CONTINUATION OF COMPLAINT:

Rafael HERNANDEZ-Cortazar

PROBABLE CAUSE STATEMENT

On July 24, 2008, Border Patrol Agent B. Belzer was performing his assigned duties in the Campo, California area of responsibility. Agent Belzer responded to seismic intrusion device Northeast of the Tecate, California Port of Entry.

Agent Belzer arrived in the area and found fresh footprints. Agent Belzer followed the footprints north until he found four individuals attempting to conceal themselves in some brush. Agent Belzer identified himself as a United States Border Patrol Agent and questioned each subject as to their citizenship and immigration status, including one later identified as the defendant **Rafael HERNANDEZ-Cortazar**. All four including the defendant, admitted to being citizens and nationals of Mexico without the proper immigration documents to enter or remain in the United States legally. At approximately 8:15 a.m., all four subjects were arrested and transported to the Border Patrol Station in Pine Valley, California for processing

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico on July 13, 2008**, through **San Ysidro, CA**. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was advised of his Miranda Rights and was willing to make a statement without an attorney present. The defendant stated that he is a citizen and national of Mexico without any documents allowing him to enter or to remain in the United States legally.